Drugs Control II
S2(N)

1952.

File No.

Legal Department.

B **BRANCH**

Subject:— Notifications under the Bombay Drugs (Control) Act, 1952

File No. Drugs Control II/52(N)

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Legal Department.

10 revised draft notifications in place of the L.S.G. & P.H.D. drafts at pages 9 to 15 ante are sent herewith subject to the following observations.

Draft notifications II and III .- No order under section 4 of the Bombay Drugs (Control) Act, can be issued unless the Act is made applicable to a drug under section 3(1) of the Act and unless the same is again declared to be a notified drug under section 3(2) of the Act. It is, therefore, necessary to declare -

(1) Adrenocorticortropic Hormone (ACTH) or any preparation thereof,
(2) CORTISONE or any other preparation thereof
(3) Isonicotinic Acid Hydrazide or any other Hydrazine derivative of Isonicotinic acid or any preparation thereof,

as notified drugs under section 3(1) as well as under section 3(2) of the Act. The two revised drafts provide accordingly.

Drafts notification No. IV.- The matter required to be provided in the L.S.G. & P.H.D. draft at slip 'L' has now been embodied in five different revised drafts, namely, drafts Nos. IV , V, VI, VII and VIII.

The draft notification regarding the quantity to be possessed by a producer has again been divided into two notifications according as the producer has commenced the business of a producer before the year 1947 or after the commencement of the month of October 1952. In the case of the former, the intention appears to be to fix the average quantity producer by each such dealer during the period he was in the business. It is presumed that such quantity is to be fixed on monthly basis, otherwise if it is not fixed on monthly basis, it would mean that the producer will be able to possess at any one time the aggregate quantity produced by him during the year.

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In the case of producers who have commenced the business of producing notified drugs after the commencement of the month of October 1952, it is provided in the Drugs Controller's draft that the maximum quantity to be possessed by them shall be such as may be proved to the satisfaction of the Drugs Controller, Bombay State, to be reasonably necessary for the bona fide business of producers. There is no criterion for determining what is the quantity reasonably necessary for a bona fide business of a producer and the question will have to be left to be determined by a Court. It is necessary to make specific provision regarding such quantity in the notification itself or take power to Government to fix the quantity from time to time. Further it appears that Government will have to fix different quantities for different producers having regard to the production capacity of the factory of a producer. General powers may therefore be taken to fix such quantity in the prescribed manner either by Government itself or by an officer authorised by it. Draft notification No. V provides accordingly.

Draft VI shows the quantity which may be possessed at any one time by (1) a retail dealer, (2) a wholesale dealer and (3) an authorised distributor of a producer.

Draft VII specifies the maximum quantity to be sold in any one transaction to (1) a producer or authorised distributor of a producer, (2) a wholesale dealer, (3) a medical practitioner or dispensing chemist, (4) a retail dealer and(5) any person in an

an individual capacity.

Draft VIII specifies the quantity which may be possessed by a person in his individual capacity or as the head of the household at any one time.

Revised draft IX.- (L.S.G. & P.H.D. draft No. VII at P. 13). - The reference to section 7(2) in the L.S.G. & P.H.D. draft is not in order. It is true that power is given in that sub-section to prescribe the particulars. Section 18(2)(a), however, of the Act provides that the State Government may, subject to the conditions of previous publication, make rules to carry out any other matter which is to be or may be prescribed under this Act. The matters to be prescribed under section 7(2) of the Act are, therefore, to be provided for by x means of rules under section 18 of the Act after previous publication. The revised draft provides accordingly.

Revised draft No. X (L.S.G. & P.H.D. draft No. VIII at P. 15).- It is not necessary as proposed by the L.S.G. & P.H.D. to specify what powers are to be exercised by the Inspectors. The only power to be exercised by the Inspectors are those given in Sec. 13(2) of the Act. It is sufficient if the Inspectors are appointed under section 13(1) so that they may automatically exercise powers under section 13(2) of the Act.

Sd/- J.R. Dhurandhar.

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Additional Secretary to Government.

H.H. (Prohibition).

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